

## REMARKS

In the Office Action dated November 12, 2004, the Examining Attorney has detailed a number of objections and rejections. Each of these issues will be addressed in the same order as provided in the Office Action.

### Drawings

The applicant is confused by the Examiner's statement that: "The 'one of the said outlets being a first restricted orifice' (i.e., where outlet 28 is the first restricted orifice) must be shown or the feature(s) cancelled from the claim(s)." In Figure 1, the Examiner will observe that the outlet **28** is a restricted orifice in that it has a smallest cross-sectional area than gas passageway **18** as illustrated. It also has a smaller cross-sectional area than the central flow passageway **48** as illustrated. Accordingly, it would appear that either of the outlets **28,36** could qualify as a restricted orifice. While it is true that the outlet **36** is more restricted than the outlet **28**, as illustrated, other dimensions are possible in other embodiments.

Nevertheless, by amending claim 1 so that the outlet **36** corresponds to the first restricted orifice which the Examiner has acknowledged is a restricted orifice, the drawings become enabling over the initial objections of the Examiner. It is further observed that even with the restriction of limiting the first restricted orifice to the outlet **36**, the outlet **28** could be an even further restricted orifice in some embodiments. Accordingly, this limitation does not necessarily affect the scope of the claim, but it does address the drawing objection as provided by the Examiner.

### **Claim Rejections – 35 USC § 112**

Claims 11-16 were rejected under 35 U.S.C. § 112 for a similar basis as the drawing objection. Specifically, the Examiner agrees that the specification on page 5, line 1 teaches a first restricted orifice **36**. The Examiner states that the specification does not appear or teach the outlet **28** being a first restricted orifice.

The applicant assumes that the Examiner intended for this rejection to apply to all sixteen claims and not just claims 11-16. By amending claim 1 to require the first restricted orifice apply to the outlet **36** this rejection is overcome since claims 2-16 depend from claim 1. Furthermore, it is reiterated that the outlet **28** could have an even more restricted orifice than the first restricted orifice in some embodiments.

Claim 7 is rejected as being indefinite under 35 U.S.C. § 112 for the limitation of “said shoulder.” The applicant amended claim 7 to provide a proper antecedent basis for “said annular shoulder” which is introduced in the second line of claim 7.

### **Substantive Rejection**

Claims 1-16 are rejected as being anticipated by Hinchman, U.S. Patent No. 2,517,877. Hinchman shows a nozzle and tip for burning and welding torches. Hinchman shows a conduit **7**, a nozzle body member **8**, and an adjustment mechanism **25**. The Examiner appears to be interpreting the first position with the adjustment member **25** tight against the nozzle body member **7**. A second position appears to be provided with the adjustment member **25** slightly backed off from the nozzle body member **8** thereby increasing the flow through the conical end **28**, or outlet, since the orifice size of the outlet through the conical end **28** is effectively adjustable as taught in Hinchman. By backing the conical end **28** away from the nozzle body

member, the outlet at the conical end **28** is enlarged, thereby allowing more flow through the outlet.

Claim 1 has been amended to provide a non-adjustable first restricted orifice. Hinchman cannot be modified to provide a non-adjustable conical end and operate as claimed by the applicant. In fact, if Hinchman were provided with a non-adjustable first restricted orifice, the ability to adjust the flow of gas through the Hinchman torch would be eliminated. One of the purposes of the adjustment mechanism provided in Hinchman is to adjust the flow through that nozzle structure. Accordingly, there is no way to modify Hinchman to meet the structure claimed by the applicant especially in light of the fact there is no flow through the "bypass **18**" as addressed in the first Office Action of the Hinchman reference.

### Conclusion

Accordingly, with the enclosed Petition for an Extension of Time for one month and the arguments and amendments provided herewith, claims 1-16 are believed to be allowable and such action is respectfully requested.

Respectfully submitted,

Date: February 22, 2005

By: 

Stephen J. Stark  
Attorney for Applicant  
MILLER & MARTIN LLP  
Suite 1000 Volunteer Building  
832 Georgia Avenue  
Chattanooga, Tennessee 37402  
(423) 756.6600

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Mail Stop Fee Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, Virginia 22313-1450

on this 22 day of February, 2005.

By: Beverly L. Middleton  
Beverly L. Middleton